In the drawings:

Please amend the drawings as shown on the attached pages.

Remarks

The forgoing amendment has been made after a careful review of the present application, the references of records, and the Office Action dated December 8, 2004. In the Office Action, the examiner objected to the drawings as not containing certain indicia numbers set forth in the specification and raised certain technical objections to the claims. The examiner also rejected claims 6 through 9 and claim 12 as being anticipated by Park under 35 USC 102(b). Claims 1 through 3 and 5 were rejected under 35 USC 103(a) as being unpatentable over Robinson in view of McSorley, and claim 4 was rejected under 35 USC 103(a) as being unpatentable over Robinson in view of McSorley and in further view of Miller. Finally, claims 6 and 8 were rejected under 35 USC 103(a) as being unpatentable over Haun in view of Park and claims 9 through 11 were rejected under 35 USC 103(a) as being unpatentable over Haun and Park in further view of Miller.

In the forgoing amendment, the applicant has amended Fig. 11 to add a level bubble 98 as described on page 11 line 22 of the specification, and to add indicia numbers 94 and 98 as the examiner requested. The examiner further requested that the drawings be amended to add indicia number 44 and 53, however the applicant points out that these indicia numbers are already shown in Fig. 8 (the specification directs the reader to Figs. 6 – 8), those numbers being marked in red on the attached page.

The applicant has also amended claim 1 to incorporate the elements of claim 2, which has in turn been canceled. Claim 3 has been made dependent on claim 1 rather than claim 2. Claim 6 has been substantially amended to incorporate the elements of claim 7, which has been canceled. Claim 12 has been amended to add a bubble indicator for indicating when the transverse member is horizontal and technical amendments have been made throughout all the claims to overcome technical objections raised by the examiner plus other technical problems discovered by the applicant in the course of preparing the present amendment.

The applicant hereby traverses the rejection of amended claim 1 under 35 USC 103(a) as being unpatentable over Robinson in view of McSorley. Amended claim 1 recites a device for measuring the depth of a point in a manhole, the device including a elongate pole, a slide moveable along the pole, extension means extending from the sides of the slide with the extension means having an edge intersecting a centerline of the pole such that the reading of length is taken from the centerline of the pole. Robinson, on the other hand, discloses a measuring device including an elongate pole and a slide with extension means extending from the slide, but the device of Robinson is intended to be retained vertically and not retained at an angle. Accordingly, the thickness of the elongate rod is not an important matter to Robinson whereas thickness of the rod is important where the rod is to be retained at an angle with respect to the vertical because the most accurate reading of length is taken at the center of the rod rather than at one side of the rod where the width of the rod will reduce the accuracy of the measurement of length. McSorley discloses a level that includes an inclinometer, however the device of McSorley fails to appreciate the importance of taking a measurement from a midpoint of an elongate member where the measuring pole is positioned at an angle. Accordingly, amended claim 1 clearly defines over the combination of Robinson and McSorley and therefore the rejection of claim 1 under these references must be withdrawn.

Claims 3 and 5 were also rejected under the same combination of references and these claims define over the references cited for the same reason as given with respect to claim 1.

Claim 4 was rejected under 35 USC 103(a) as being unpatentable over Robinson, McSorley, and Miller. Miller discloses the use of one or more of the elongate members employed by surveyors but again fails to place any importance on taking measurements from the centerline of the member when the member is oriented at an angle, and not vertical.

The applicant hereby traverses the rejection of amended claims 6 and 8. Amended claim 6 incorporates the elements of former claim 7 such that in many respects claim 6 is former claim 7 written in independent form. The applicant notes that although claim 7 is indicated on page 1 of the Office Action as having been rejected, the Office Action offers no grounds for rejecting claim 7. Amended claim 6 (formerly claim 7) recites a surveyor's tool including a slide moveable along an elongate rod with an elongate member extending from opposite sides of the slide with an angle indicator on the slide for measuring an angle of the rod and a second angle indicator for determining when the elongate member is horizontal such that the first angle indicator will measure an angle from a plumb. On the other hand, none of the references cited disclose a first angle indicator for determining an angle of inclination and a second angle indicator reading perpendicular to a reading of the first angle indicator to ensure that the first angle indicator will measure from a plumb as required by amended claim 6. McSorley is cited by the examiner as showing a multiplicity of angle indicators in the same device, including an inclinometer 14 and two bubble indicators 21 and 22. Both of the bubble indicators 21, 22, however, appear to be in the same plane as the inclinometer 14. Bubble indicator 22 is depicted as being at 45 degrees with respect to the two long sides of the device and bubble indicator 21 is depicted as being parallel to the long sides of the leveling device. Presumably, bubble indicator 21 is used to determine when one of the long sides of the device is oriented horizontal. The inclinometer 14, as depicted, would also read the angle at which the long sides are oriented. Clearly, the bubble indicator 22 does not read perpendicular to the reading of the inclinometer 14 and therefore it cannot be used to ensure that the inclinometer is reading an angle with a plumb as required by amended claim 6. This important feature of this invention, which is clearly set forth on page 10 lines 10 through 12 of the present specification is not appreciated by McSorley. None of the other references show the use of two angle indicating devices in the same tool whereby one angle indicator is used to ensure that the second measures an angle with respect to a plumb as required by amended claim 6. Accordingly, the applicant submits that claim 6 defines over any of the references of record.

Claims 8 through 11 are all dependent upon claim 6 and are believed to be allowable for the same reason given with respect to claim 6. Furthermore, claims 8 and 9 are directed to an elongate member having an edge that intersects a midpoint of the elongate rod such that measurements are taken from the center of the rod as required in claim 1, and therefore these claims are also believed to be allowable for the same reasons given with respect to claim 1.

In similar fashion, the applicant traverses the rejection of amended claim 12. Claim 12, as amended, also recites both a bubble indicator on the slide for indicating when the transverse member is horizontal and angle indicating means for indicating the angle of inclination of the rod with respect to a plumb. Amended claim 12 is therefore allowable for the same reasons given with respect to claim 6.

In view of the forgoing, the applicant submits that the claims of the application are now in condition for allowance and favorable reconsideration and allowance are respectfully requested.

Respectfully submitted,

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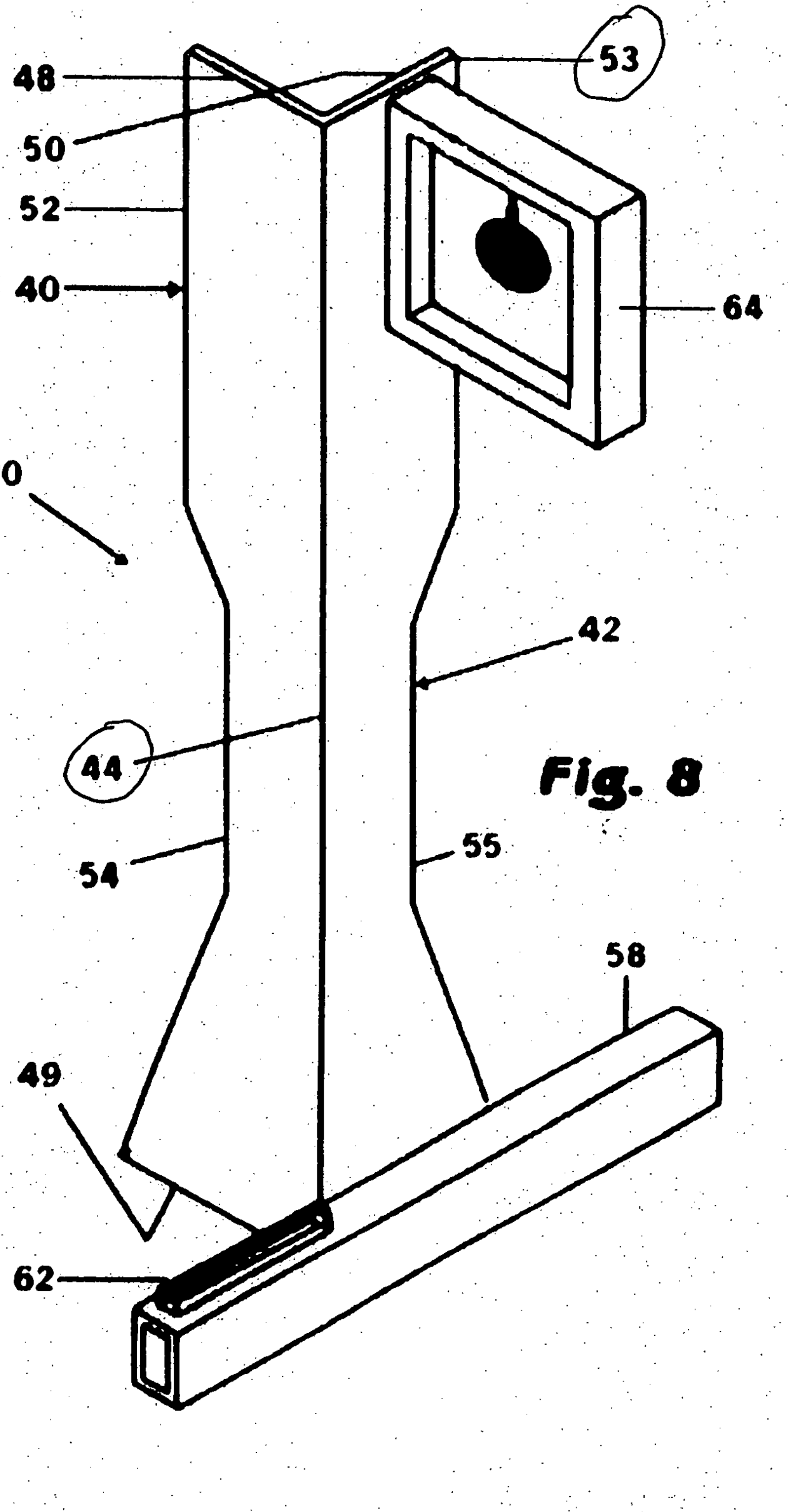


Fig. 8

REPLACEMENT SHEET

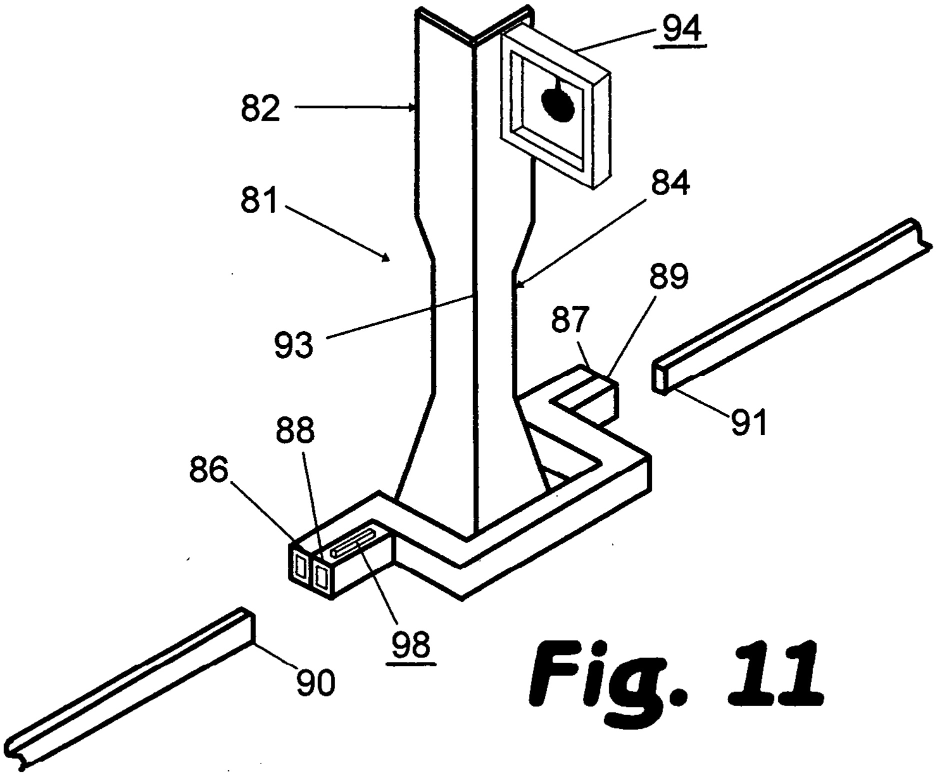
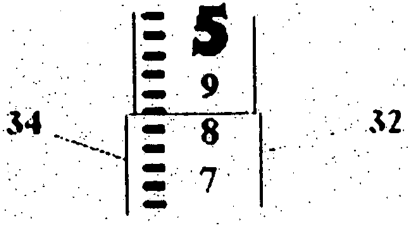
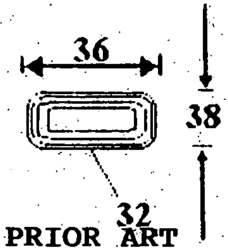


Fig. 11



PRIOR ART

Fig. 4



PRIOR ART

Fig. 5

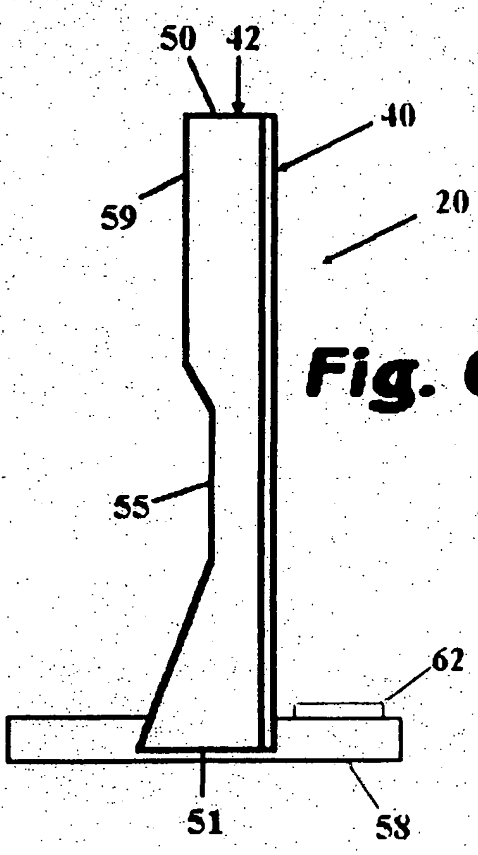


Fig. 6

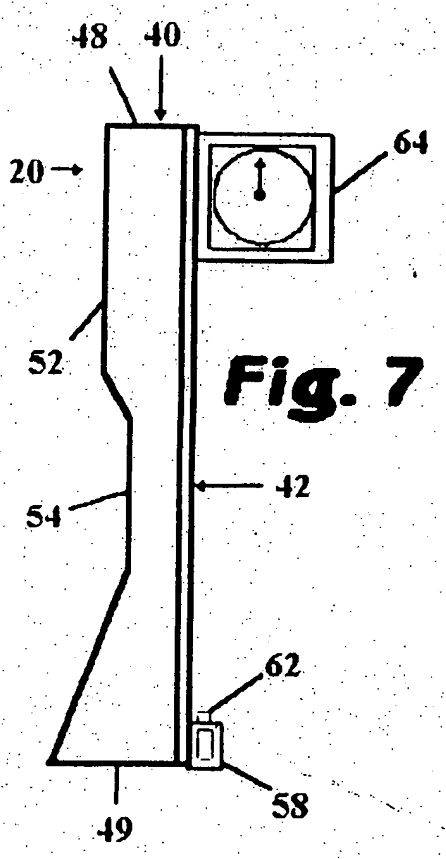


Fig. 7